IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE THIRTY FIRST DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HONOURABLE SRI JUSTICE V.V.S.RAO

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WRIT PETITION No.2179 of 2003

Between:

1 Rajaka Seva Sangham, Teki, Kapileswarapuram Mandal, E.G.District rep.by its President, Erukonda Veerraju, S/o Venkanna, 45 years, R/o Teki

..... PETITIONER

AND

1. Village Secretary, Teki Gram Panchayat, Teki, Kapileswarapuram Mandal, East Godavari District
2. The District Collector, E.G.District at Kakinada
3. Gudala Surya Venkat Rao, S/o satyam,
R/o D.No.1-19, Near Water Head Tank, Teki, Kapileswarapuram Mandal,
East Godavari District
4. Guthula Veerraju, S/o Papaiah,
R/o Teki Market Center, Teki, Kapileswarapuram Mandal,
East Godvari District
5. Putta Suribabu, S/o Ramanna,
R/o Near Subhash Chandra Bose Statue, Teki, Kapileswarapuram Mandal,
East Godavari District
6. Koppisetti Venkata Ratnam, S/o Subbulu,
2nd Street, Settibalizipeta.
7. Chundru Narayana Rao, S/o Raju,
Residing at Main Road, Teki, Kapileswrapuram Mandal, East Godavari District.

(R3 to R7 impleaded as per Court Order dated 18-08-2004 in WPMP 16643/04)

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue writ of Mandamus or any appropriate Writ or order declaring the action of the

1st respondent in issuing the Notice dt.27.1.2003 in Rc. No. 29/2002 directing the petitioner to remove from its possession and enjoyment of the land in R.S. No. 382/Asituated at Teki Village of Kapileswarapuram Mandal, E.G. Dist as illegal, arbitrary and violative of principles of natural justice and unconstitutional and for a consequential order directing the respondents herein not to dispossess themembers of the petitioner sangham from their possession and enjoyment of theland in R.S.No. 382/A of Teki Village, Kapileswarapuram Mandal, E.G.Dist.

Counsel for the Petitioner: MR.I.NAGESH

Counsel for the Respondent Nos.1 and 2: GP FOR PANCHAYAT RAJ & RURAL DEV.

Counsel for the Respondent Nos.3 to 7: Mr. C.V. BHANOJI RAMARS

The Court made the following:

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ORDER:

Rajaka Seva Sangham, Teki in East Godavari District assails the notice dated 27.1.2003 issued by the Village Secretary of Teki Gram Panchayat, the first respondent herein, directing the petitioner to remove the structures in the land comprised in R.S. No.382/A situated at Teki village of Kapileswarapuram Mandal in East Godavari District. It is alleged in the impugned notice that the petitioner-Sangham constructed huts in the said land by encroaching the land. The impugned notice was issued purportingly under the orders of the District Collector vide Memo dated 23.12.2002. A reading of the memo of the District Collector shows that the Panchayat Secretary was directed to take necessary action to remove unauthorized cattle sheds in the land comprised in R.S. Nos.259 and 261 duly issuing notices under Section 98 of A.P. Panchayat Raj Act, 1994. Curiously, the notice issued to the petitioner, which is allegedly in occupation of the land in R.S. No.382/A. Further, even when the Collector advised the first respondent to issue notice under Section 98, without following the same, the impugned notice is issued, which is contrary to the orders of the District Collector as well as principles of natural justice.

The learned Government Pleader was given sufficient time to get instructions in the matter to clarify the position as to whether the petitioners Sangham is in possession of the land in R.S. Nos.259 and 261 and the matter was heard in detail at the Interlocutory stage. Today, the learned Assistant Government Pleader for Panchayat Raj Mr. Zakir Ali submits that the members of the petitioner have already encroached the land in R.S. No.382/A, which is not substantiated.

Therefore, the writ petition is disposed of setting aside the impugned notice. It shall however be open to the respondents to take action if any against the members of the petitioner Sangham in accordance with law after issuing notice to them.

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Date: August 31, 2004. **V.V.S. RAO, J**

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ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. Village Secretary, Teki Gram Panchayat, Teki, Kapileswarapuram

Mandal, East Godavari District
2. The District Collector, E.G.District at Kakinada
3. Two C.D. Copies.